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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,772	03/13/2001	Andre P. Guillory	390073	2684

7590 02/20/2004  
Lathrop & Gage L.C.  
Suite 2800  
2345 Grand Boulevard  
Kansas City, MO 64108

EXAMINER

NGUYEN, PHUNG

ART UNIT	PAPER NUMBER
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2632

DATE MAILED: 02/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/804,772

Applicant(s)

GUILLORY, ANDRE P.

Examiner

Phung T Nguyen

Art Unit

2632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-23 is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 9, 10, 12, 14, 15 and 17 is/are rejected.
- 7) ☒ Claim(s) 6, 11, 13 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08).<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

The Affidavit filed on 12/15/03 under 37 CFR 1.131 has been considered but is ineffective to overcome the Schwoegler (U.S. Pat. 6,590,529) reference.

1. The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the Schwoegler reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897). The provided record shows evidence of an invention that is not the same as the disclosure/claims invention. For example, the claimed "type data indicating a type of severe weather and area designation data for a specific area comprising at least one member of a group consisting of sector data indicating a sector in which the severe weather is expected" is not supported in the evidence. Since invention from provided differs from current invention, conception has not been established.
2. The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Schwoegler reference to either a constructive reduction to practice or an actual reduction to practice. Since conception has not been established, it follows that diligence has not been established either.
3. The evidence submitted is insufficient to establish applicant's alleged actual reduction to practice of the invention in this country or a NAFTA or WTO member country after the effective date of the Schwoegler reference as per the above reasons.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5, 7, 9, 10, 12, 14, 15, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barber [U.S. Pat. 6,255,953] in view of Schwoegler [U.S. Pat. 6,590,529]

**Regarding claim 1:** Barber discloses a tornado warning system which comprises all the subject matter as follows:

- a. a transmitter in the form of the central monitor 18 (figure 1, col. 3, lines 7-35) for transmitting a signal comprising the notification including sector data indicating a specific area in which the severe weather is expected;
- b. a plurality of receivers 44 (figure 3, col. 3, lines 64-67, and col. 4, lines 1-6);
- c. wherein each of the receivers annunciates an alarm in response to receiving the signal only when the sector data received in the signal matches code programmed (col. 4, lines 22-25);

The receivers 44 of Barber are programmed with the sub-address, which is different than any other county or grid block (col. 3, lines 29-44). Barber does not disclose city/county data indicating a city/county in which the severe weather is expected as claimed. However, Schwoegler discloses an individualized, location specific weather forecasting system comprising a plurality of geographical sectors and, for each sector, weather forecast data unique to each sector (col. 2, lines 41-55, col. 5, lines 1-5, col. 10, lines 31-49, col. 12, lines 24-33). Therefore,

Art Unit: 2632

it would have been obvious to one of ordinary skill in the art to utilize the teaching of Schwoegler in the system of Barber because they both teach a system for receiving weather forecasts specific to their location. It is seen that Schwoegler's teaching of sending weather data unique to specific geographic sectors, e.g. city/county would increase the flexibility of Barber's system in order to prevent sending out a city-wide warning every time a tornado threatens one small part of the city.

**Regarding claim 2:** Barber discloses the emergency warning mechanism activates a siren when the transmitter is activated (col. 3, lines 59-63, and col. 4, lines 21-22).

**Regarding claim 3:** Barber discloses the control unit 18 (figure 1, col. 3, lines 8-11) configured to the transmitter and the siren.

**Regarding claim 4:** Barber discloses the local authority comprising an authority in a county (col. 2, lines 65-67, and col. 3, lines 1-6).

**Regarding claim 5:** Barber discloses the local authority comprising an authority to activate the transmitter, the authority including at least one member of a group consisting of a municipality in which the specific area is located (col. 3, lines 7-18).

**Regarding claim 7:** All the claimed subject matter is already discussed in respect to claims 1 and 2 above.

**Regarding claim 9:** Barber discloses a code for a location of the receiver (col. 3, lines 29-44).

**Regarding claim 10:** Refer to claim 3 above.

**Regarding claim 12:** All the claimed subject matter is already discussed in respect to claims 1, 2, and 4 above.

Art Unit: 2632

**Regarding claim 14:** All the claimed subject matter is already discussed in respect to claim 1.

**Regarding claim 15:** Schwoegler discloses the area designation data comprising a code indicating the specific area and the at least one receiver is located in the specific area (col. 3, lines 50-58).

**Regarding claim 17:** Refer to claim 4 above.

***Allowable Subject Matter***

6. Claims 6, 11, 13, and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 18-23 are allowed.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Pinder [U.S. Pat. 6,112,074] discloses a radio communication system with automatic geographic event notification.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phung T Nguyen whose telephone number is 703-308-6252. The examiner can normally be reached on 8:00am-5:30pm Mon thru. Friday, with alternate Friday off.

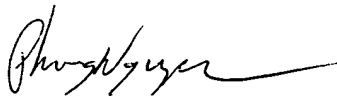
Application/Control Number: 09/804,772  
Art Unit: 2632

Page 6

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Wu can be reached on 703-308-6730. The fax numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-308-9051 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

Examiner: Phung Nguyen

A handwritten signature in black ink, appearing to read 'Phung Nguyen', with a long horizontal flourish extending to the right.

Date: February 19, 2004